

# CALIFORNIA BOARD OF LEGAL SPECIALIZATION OF THE STATE BAR OF CALIFORNIA



180 HOWARD STREET  
SAN FRANCISCO, CALIFORNIA 94105-1639  
TELEPHONE: (415) 538-2120



## BANKRUPTCY LAW CERTIFICATION EXAM

<b>Date</b>	Sunday, August 14, 2005 9:00 a.m. – 4:00 p.m.
<b>Registration deadline</b>	Friday, July 1, 2005
<b>Exam sites</b>	Westin at San Francisco Airport Radisson at Los Angeles Airport
<b>Fee</b>	\$300 writing (\$350 if using a laptop PC) <i>fee includes a box lunch</i>
<b>Exam format</b>	<p>The exam is divided into two three-hour sessions – the morning session includes 50 multiple-choice questions and two essay questions; the afternoon session includes four essay questions. There are no optional questions; each examinee is expected to answer all questions on the exam.</p> <p>The 50 multiple-choice questions, worth three points each, are designed to be answered in approximately 90 minutes. Each essay question is worth 75 points and is designed to be answered in approximately 45 minutes.</p>
<b>Scoring</b>	The maximum number of points available is 600. A passing score is 420 points, or 70%. Exams with scores between 65-70% are re-read by a Committee of Reappraisers. The decision of the Committee is final, pursuant to section 8.3 of the Rules Governing the State Bar of California Program for Certifying Legal Specialists. Results are mailed only after all reappraisals have been completed.
<b>Reference materials</b>	No reference materials are allowed during the exam.
<b>Testing accommodations</b>	Available at both sites. Contact <a href="mailto:ivonne.broussard@calbar.ca.gov">ivonne.broussard@calbar.ca.gov</a> or (415) 538-2145 for more information.
<b>Study resources</b>	See attached standards for certification, exam specifications, and sample exam questions.

**For more information, visit [www.californiaspecialist.org](http://www.californiaspecialist.org)**

## **THE STANDARDS FOR CERTIFICATION AND RECERTIFICATION IN BANKRUPTCY LAW**

### **1.0 DEFINITION**

Bankruptcy law is the practice of law under the United States Bankruptcy Code (11 U.S.C. §101, et seq.) ("Code"). It includes, but is not limited to, representation of debtors, creditors, trustees, committees and all other interested parties under the Code.

### **2.0 TASK REQUIREMENT FOR CERTIFICATION**

An applicant must demonstrate that, within the five (5) years immediately preceding the initial application, he or she has been substantially involved in the practice of bankruptcy law. Substantial involvement in the area of bankruptcy law would be shown if he or she had principal responsibility for representation of, and has personally appeared on behalf of, a client or clients in 100 or more chapter 7, 11, 12, or 13 bankruptcy cases, contested matters, and/or adversary proceedings under the Code.

### **3.0 EDUCATIONAL REQUIREMENT FOR CERTIFICATION**

An applicant must show that, within the three (3) years immediately preceding the application for certification, he or she has completed not less than forty-five (45) hours of approved educational activities relevant to bankruptcy law.

### **4.0 INDEPENDENT INQUIRY AND REVIEW REQUIREMENT FOR CERTIFICATION**

- 4.1 An applicant shall submit the names and mailing addresses of the following:
  - 4.1.1 Three (3) lawyers who practice in the same geographic area as the applicant, and one (1) judge of the United States Bankruptcy Court or District Court, chosen by the applicant before whom the applicant has appeared as an advocate in bankruptcy proceedings within the five (5) years immediately preceding application; and
  - 4.1.2 Two (2) different opposing counsel in two (2) contested or adversary proceedings conducted by the applicant within the five (5) years immediately preceding application, if any; and
  - 4.1.3 One (1) bankruptcy trustee whom the applicant has represented in a bankruptcy proceeding within the five (5) years immediately preceding the application; or one (1) bankruptcy trustee or one (1) trustee's attorney in a case in which the applicant represented the debtor within the five (5) years immediately preceding application.

- 4.2 The Commission may select from among the names of judges and lawyers who practice or preside in the same geographical area as the applicant for further evaluation of the applicant's proficiency in the practice of bankruptcy law.

- 4.3 References may be asked to submit the names of additional references familiar with the applicant's proficiency.

### **5.0 TASK REQUIREMENT FOR RECERTIFICATION**

An applicant for recertification must show that during the current five (5) year certification period he or she has had direct and substantial participation in the practice of bankruptcy law. Such showing shall be made by compliance with the requirements set forth in section 2.0 or, at the discretion of the Commission, by sworn statement that the applicant has engaged in the practice of bankruptcy law substantially to the same extent as described in the application for original certification.

### **6.0 EDUCATIONAL REQUIREMENT FOR RECERTIFICATION**

An applicant for recertification must show that during the current five (5) year certification period he or she has completed not less than sixty (60) hours of approved educational activities relevant to bankruptcy law specialists.

### **7.0 INDEPENDENT INQUIRY AND REVIEW REQUIREMENT FOR RECERTIFICATION**

An applicant for recertification shall demonstrate proficiency in bankruptcy law through independent inquiry and review in the same manner as set forth in section 4.0 for certification.

## **Specifications For State Bar of California Bankruptcy Law Certification Examination**

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**Purpose of the Examination:** The Bankruptcy Law Examination consists of a combination of essay and multiple-choice questions. It is designed to verify the applicant's knowledge of and proficiency in the usual legal procedures and substantive law that should be common to specialists in the field as represented by the skills listed below. We recognize that these skills are interrelated, which may require that you apply several skills in responding to a single exam question. Also, the order of the skills does not reflect their relative importance, nor does the skill sequence represent an implied order of their application in practice.

Your answers to the exam questions should reflect your ability to identify and resolve issues, apply the law to the facts given, and show knowledge and understanding of the pertinent principles and theories of law, their relationship to each other, and their qualifications and limitations. Of primary importance for the essay questions will be the quality of your analysis and explanation.

Knowledge of the following fundamental lawyering skills may be assessed:

### **Skill 1: Professional Responsibility**

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- 1.1 Duties to clients, counsel, trustees and the Court
- 1.2 Conflicts in joint representation of spouses
- 1.3 Avoiding conflicts of interest in other cases
- 1.4 Admission to practice before the Court
- 1.5 Approval of employment
- 1.6 Fee agreements
- 1.7 Disclosure of fee arrangements and impact on timing of filing

### **Skill 2: Analysis of Client Needs**

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- 2.1 Determining whether non-bankruptcy alternatives exist
- 2.2 Assessing viability of non-bankruptcy options
- 2.3 Determining sources of data
- 2.4 Advising client of disclosure obligations and consequences of disclosure failure
- 2.5 Client authorization to obtain data from third parties
- 2.6 Extent of attorney-client, attorney work product and other privileges and waiver
- 2.7 Determining client eligibility for Chapters 7, 11, 12 and/or 13
- 2.8 Assessing liquidation vs. reorganization alternatives
- 2.9 Pre-petition exemption planning
- 2.10 Fraudulent and preferential transfer issues
- 2.11 Reaffirmation/Redemption/Surrender

### **Skill 3: Automatic Stay Issues**

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- 3.1 Scope of Stay
- 3.2 Exceptions to Stay
- 3.3 Expiration of Stay
- 3.4 Terminating or Modifying Stay
  - 3.4.1 Cause
  - 3.4.2 Adequate Protection
  - 3.4.3 Burden of Proof

### **Skill 4: Administration of Estate Issues**

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- 4.1 Leases and executory contracts
  - 4.1.1 Assumption and Assignment
  - 4.1.2 Rejection

- 4.1.3 Debtor as Lessor
- 4.2 Use of Cash Collateral
- 4.3 Sale of Estate Property
- 4.4 Post-petition Credit
- 4.5 Administrative Expenses
- 4.6 Employment of Professionals

#### **Skill 5: Estate Issues**

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- 5.1 Property of the Estate
  - 5.1.1 Chapter 7 & 11
  - 5.1.2 Chapter 13
- 5.2 Exemptions
- 5.3 Lien Avoidance
- 5.4 Turnover and Avoidance Actions
  - 5.4.1 Standing
  - 5.4.2 Parties
  - 5.4.3 Defenses
- 5.5 Abandonment of Estate Property
- 5.6 Setoff and Recoupment

#### **Skill 6: Creditors and Claims Issues**

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- 6.1 Proofs of claims
  - 6.1.1 Transfer of Claims
  - 6.1.2 Subordination of Claims
  - 6.1.3 Allowance of Claims
  - 6.1.4 Treatment of Late Filed Claims
  - 6.1.5 Claims Bar Dates
  - 6.1.6 Subordination of Claims
- 6.2 Tax Claims
  - 6.2.1 Priority Claims
  - 6.2.2 Secured Claims
  - 6.2.3 Chapter 11 vs. Chapter 13 Treatment
  - 6.2.4 Short Tax Year Election
- 6.3 Claims Objections
  - 6.3.1 Valuation Issues
  - 6.3.2 Bifurcation of Claims
  - 6.3.3 Unliquidated Claims
  - 6.3.4 Contingent Claims

#### **Skill 7: Reorganization Issues**

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- 7.1 Basic knowledge of Chapter 11 and Chapter 13 alternatives
- 7.2 Formulating a Chapter 11 Plan
  - 7.2.1 Classification
  - 7.2.2 Exclusivity
  - 7.2.3 Disclosure Statement
  - 7.2.4 Small Business Plan and Disclosure Statement
  - 7.2.5 Feasibility
  - 7.2.6 Impairment of Claims
  - 7.2.7 Absolute Priority and New Value
  - 7.2.8 Voting for Confirmation
  - 7.2.9 Cram Down
- 7.3 Formulating a Chapter 13 Plan
  - 7.3.1 Classification
  - 7.3.2 Treatment of Priority Claims
  - 7.3.3 Treatment of Secured Claims and the Allowance of Interest

- 7.3.4 Curing Defaults
- 7.3.5 Good Faith Issues
- 7.3.6 Length of Plan
- 7.3.7 Disposable Income
- 7.4 Chapter 13 After Chapter 7
  - 7.4.1 Discharge
  - 7.4.2 Good Faith Issues

#### **Skill 8: Post Confirmation Issues**

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- 8.1 Chapter 11 – Plan Modification
  - 8.1.1 Substantial Consummation
  - 8.1.2 Breach of Confirmed Plan
- 8.2 Chapter 11 Dismissal
- 8.3 Chapter 11 Conversion
- 8.4 Chapter 13 – Plan Modification
  - 8.4.1 Suspension Orders
  - 8.4.2 Hardship Discharges
  - 8.4.3 Outside Limit for Modification
- 8.5 Chapter 13 Dismissal
- 8.6 Chapter 13 Conversion

#### **Skill 9: Discharge and Dischargeability Litigation**

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- 9.1 Jurisdictional Issues
  - 9.1.1 Jury Trial
  - 9.1.2 Discharge Actions
  - 9.1.3 Dischargeability Actions
- 9.2 Res Judicata/Collateral Estoppel Issues
  - 9.2.1 Final Judgments
  - 9.2.2 Default Judgments
- 9.3 Removal and Abstention
- 9.4 Discharge Issues
  - 9.4.1 Settlement
  - 9.4.2 Impact of Denial of Discharge
- 9.5 Dischargeability Issues

**STATE BAR OF CALIFORNIA BANKRUPTCY LAW CERTIFICATION EXAM**

**SAMPLE QUESTIONS**

FOR INFORMATION ON SAMPLE QUESTIONS, PLEASE CONTACT  
[legalspec@calbar.ca.gov](mailto:legalspec@calbar.ca.gov) or 415-538-2115.